

AN ACT

1
2 RELATING TO FUNDS; PROVIDING FOR AN ADDITIONAL TEMPORARY
3 DISTRIBUTION FROM THE TOBACCO SETTLEMENT PERMANENT FUND;
4 PROVIDING THAT THE TOBACCO SETTLEMENT PERMANENT FUND MAY, UNDER
5 CERTAIN CIRCUMSTANCES, BE CONSIDERED A RESERVE FUND OF THE STATE;
6 TEMPORARILY TRANSFERRING UNENCUMBERED AND UNEXPENDED BALANCES
7 OF A CERTAIN FUND.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

9 Section 1. Section 6-4-9 NMSA 1978 (being Laws 1999, Chapter 207, Section
10 1, as amended) is amended to read:

11 "6-4-9. TOBACCO SETTLEMENT PERMANENT FUND--INVESTMENT--
12 DISTRIBUTION.--

13 A. The "tobacco settlement permanent fund" is created in the state
14 treasury. The fund shall consist of money distributed to the state pursuant to the
15 master settlement agreement entered into between tobacco product manufacturers
16 and various states, including New Mexico, and executed November 23, 1998 or any
17 money released to the state from a qualified escrow fund or otherwise paid to the state
18 as authorized by the model statute, Sections 6-4-12 and 6-4-13 NMSA 1978, enacted
19 pursuant to the master settlement agreement. Money in the fund shall be invested by
20 the state investment officer as land grant permanent funds are invested pursuant to
21 Chapter 6, Article 8 NMSA 1978. Income from investment of the fund shall be credited
22 to the fund. Money in the fund shall not be expended for any purpose, except as
23 provided in this section.

24 B. In fiscal years 2003 through 2006, a distribution shall be made from
25 the tobacco settlement permanent fund to the general fund in an amount equal to one
hundred percent of the total amount of money distributed to the tobacco settlement
permanent fund in that fiscal year.

C. In fiscal year 2007 and in each fiscal year thereafter, an annual

1 distribution shall be made from the tobacco settlement permanent fund to the tobacco
2 settlement program fund of an amount equal to fifty percent of the total amount of
3 money distributed to the tobacco settlement permanent fund in that fiscal year until
4 that amount is less than an amount equal to four and seven-tenths percent of the
5 average of the year-end market values of the tobacco settlement permanent fund for
6 the immediately preceding five calendar years. Thereafter, the amount of the annual
7 distribution shall be four and seven-tenths percent of the average of the year-end
8 market values of the tobacco settlement permanent fund for the immediately preceding
9 five calendar years. In the event that the actual amount distributed to the tobacco
10 settlement program fund in a fiscal year is insufficient to meet appropriations from that
11 fund for that fiscal year, the secretary of finance and administration shall
12 proportionately reduce each appropriation accordingly.

13 D. The tobacco settlement permanent fund shall be considered a
14 reserve fund of the state and, as a reserve fund, may be expended in the event that
15 general fund balances, including all authorized revenues and transfers to the general
16 fund and balances in the general fund operating reserve, the appropriation
17 contingency fund and the tax stabilization reserve, will not meet the level of
18 appropriations authorized from the general fund for a fiscal year. In that event, in
19 order to avoid an unconstitutional deficit, the legislature may authorize a transfer from
20 the tobacco settlement permanent fund to the general fund but only in an amount
21 necessary to meet general fund appropriations."

22 Section 2. TEMPORARY PROVISION--TRANSFER OF FUND BALANCES.--
23 During fiscal year 2003, any unexpended or unencumbered balance of the tobacco
24 settlement program fund shall be transferred to the general fund.
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